

B. BERMAN, S.

TRICORP
ELECTRONICALLY FILED
DOC #: 11/24/08
DATE FILED: 11/24/08
UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

MEMO ENDORSED
As modified

DAVALAN SALES, INC., a California corporation, :

Plaintiff, :

vs. :

MEREX FOOD CORP., a corporation,
DAVID S. BLUMBERG, an individual,
and PHIL DOLLMAN, an individual,

Defendants. :

Civil No. 08CV10124(RMB)

**ORDER TO SHOW CAUSE
WHY A PRELIMINARY
INJUNCTION SHOULD NOT
ISSUE AND TEMPORARY
RESTRAINING ORDER**

Upon the affidavits of Katherine S. Evan and Stuart Berman, the certification of Priscilla W. Grannis, Esq., and the Attorney Certification Why Notice Should Not Be Required Pursuant To Rule 65(b), and upon the copy of the complaint hereto and pleadings in support, annexed, it is

ORDERED, that the above-named defendants ^{*attend a conference re*} show cause before a motion term of this Court, at Room 210, United States District Court for the Southern District of New York, Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, Room _____, New York, New York 10007-1312, on ^{*December 2,*} ~~November~~ _____, 2008 at ^{*9:00*} ~~7:00~~ o'clock ^{*A*} ~~P~~.m., as soon thereafter as counsel may be heard, why an order should not be issued pursuant to Rule 65 of the Federal Rules of Civil Procedure enjoining the defendants, their customers, agents, officers, subsidiaries, assigns, and banking institutions, during the pendency of this action from alienating, dissipating, paying over or assigning any assets of Merex Food Corp. or its subsidiaries or related companies except for payment to plaintiff until further order of this Court or until defendants pay plaintiff the sum of \$112,721.93 by cashiers check or certified check, at which time this Order is dissolved; and it is further

ORDERED, that, ~~sufficient reason having been shown therefore, pending the hearing of plaintiff's application for a preliminary injunction, pursuant to Rule 65, Fed. R. Civ. P., the~~

defendants, their customers, agents, officers, subsidiaries, assigns, and banking institutions are temporarily restrained and enjoined from alienating, dissipating, paying over or assigning any assets of Merex Food Corp., or its subsidiaries or related companies except for payment to plaintiff until further order of this Court or until defendants pay plaintiff the sum of \$112,721.93 by cashiers check or certified check, at which time this Order is dissolved; and it is further

RMB

ORDERED that bond shall be waived in view of the fact that defendants now hold at least \$101,027.65 worth of plaintiff's assets; and is further

ORDERED that service of a copy of this order and supporting papers by ~~Federal Express~~ ^{personal service} ~~or other nationally recognized overnight mail service~~ ^{and Fed Ex service on} upon the defendants or their counsel on or before November ~~26~~ ²⁶, 2008, shall be deemed good and sufficient service thereof.

DATED: New York, New York

ISSUED: 11/21/08

Reply papers, if any, to be served + filed by 11/28/08

RMB
United States District Judge